

AMENDED IN SENATE JUNE 11, 2008

AMENDED IN SENATE JULY 3, 2007

AMENDED IN SENATE JUNE 20, 2007

AMENDED IN ASSEMBLY MAY 2, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 938**

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**Introduced by Assembly Member Charles Calderon**

February 22, 2007

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An act to add Chapter 27 (commencing with Section 16100) to Division 7 of the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 938, as amended, Charles Calderon. Regional water management.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act, and the Porter-Cologne Water Quality Control Act. Various programs finance regional water management planning.

This bill would authorize a county, or a city *or special district* under certain circumstances, to convene ~~one or more a watershed water quality committees to develop and facilitate cooperation in achieving local water quality solutions~~ *committee to maintain or achieve compliance with water quality laws and regulations, and to prepare a related integrated implementation plan*. If convened, the committee would be required to include at least one member representing the appropriate

regional board, as well as at least one member from entities representing resource agencies, water agencies, sanitation districts, the environmental community, landowners, business, and industry, and, where appropriate, agricultural interests. ~~The committee would be required to prepare a specified work plan for the development of a watershed water quality management plan, for approval by the regional board under specified circumstances. The committee would be required to use reasonable efforts to prepare, and submit to the regional board for its approval, a watershed water quality management plan within 3 years of the date on which the regional board approves the work plan. The watershed water quality management integrated implementation plan, as defined, would be required to address major sources of pollutants in receiving water, stormwater and, urban runoff, and or other surface runoff pollution within the region watershed or subwatershed to which the plan applies.~~

The bill would require the regional boards to review and approve a watershed water quality management *an integrated implementation* plan prepared by a watershed water quality committee ~~in accordance with specified procedures~~. The bill would require the regional boards to consider the watershed water quality management plans for adoption as water quality control plans or as the basis for an amendment to a water quality control plan *incorporate approved plans into regional water quality control plans*. The state board would be authorized to review the actions or the failure to act by a regional board with regard to proposed watershed water quality management *integrated implementation* plans. ~~The state board would be required to require or uphold the approval of the plan, and its adoption as a component of a regional water quality control plan, or as the basis for a conforming amendment to a regional water quality control plan, if the plan is not otherwise contrary to law and other requirements are met.~~

The bill would authorize a city, county, or special district that provides water, sanitation, or refuse collection services, *or similar services*, to plan, design, ~~acquire implement~~, construct, operate, and maintain, and furnish controls and facilities for the diversion, interception, or collection of surface runoff, including urban runoff, stormwater, and other forms of runoff, the treatment of pollutants in these waters subject to waste discharge requirements, and the return of these waters to enhance beneficial uses of waters of the state, or the beneficial use or reuse of these waters *to improve water quality, as specified*. The bill would specify that the city or county, or special district as described,

may impose fees and charges to construct, operate, and maintain these facilities, and perform related activities to implement this authority to support the preparation and implementation of integrated implementation plans.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature hereby finds and declares all of*  
2     *the following:*

3     *(a) Uncontrolled pollutants in urban runoff, stormwater, other*  
4     *forms of runoff, and nonpoint source pollution present a significant*  
5     *water quality problem and challenge to the State of California,*  
6     *and can affect adversely surface waters, water supplies, public*  
7     *health, recreation, and ecology.*

8     *(b) This act provides tools, including a framework for increased*  
9     *cooperation and collaboration among the California regional*  
10    *water quality control boards, local governments, and watershed*  
11    *stakeholders, to help remedy pollution from these sources. This*  
12    *act calls for the formation of water quality committees, which can*  
13    *bring to bear in a cooperative framework the expertise, knowledge,*  
14    *and resources of local governments and stakeholders in developing*  
15    *water quality solutions.*

16    *(c) This act will encourage and enable counties, cities, and*  
17    *special districts to finance, construct, implement, operate, and*  
18    *maintain pollution controls and facilities necessary to improve*  
19    *the quality of these waters. By doing so, this act encourages local*  
20    *agencies to develop and implement their own long-term, locally*  
21    *based projects to remedy water pollution. Significant benefits to*  
22    *water quality are expected to result from broadening the authority*  
23    *of local agencies to plan, design, finance, implement, operate, and*  
24    *maintain pollution controls.*

25    *(d) Planning, designing, constructing, maintaining, operating,*  
26    *and financing of facilities and systems for diversion, interception,*  
27    *or collection of urban runoff, stormwater subject to waste*  
28    *discharge requirements, and nonpoint source pollution, the*  
29    *treatment of these waters and pollutants, the return of diverted*  
30    *waters to receiving water bodies, the enhancement of beneficial*  
31    *uses of waters of the state, and the beneficial use or reuse of*

1 *diverted waters are an essential part of providing effective sewer,*  
2 *water, and refuse collection services, and are necessary for*  
3 *compliance with water quality laws and regulations, attainment*  
4 *of water quality standards, as well as the maintenance of public*  
5 *health.*

6 *(e) The presence of refuse and other pollutants in runoff is a*  
7 *serious problem, as indicated by the adoption of trash total*  
8 *maximum daily loads and water quality standards relating to trash*  
9 *and other constituents. The planning, financing, implementation,*  
10 *construction, operation, and maintenance of facilities to manage*  
11 *urban runoff, stormwater, and nonpoint source pollution are*  
12 *therefore necessary for, and constitute an integral part of, refuse*  
13 *collection services and services dedicated to supplying clean water*  
14 *for human use, and are a necessary response to the scheme of*  
15 *water quality regulation and to the maintenance of public health.*

16 *(f) During heavy rains, stormwater and urban runoff can*  
17 *overwhelm sewer systems, causing sewage to mix with stormwater*  
18 *and urban runoff. Leaks from sanitary sewers allow sewage to*  
19 *pollute runoff water. These sources of sewage can make their way*  
20 *to the coastal zone, resulting in beach closures and related public*  
21 *health problems. Also, diffuse sources of bacteria affect the quality*  
22 *of urban runoff and stormwater, contributing to reduced coastal*  
23 *water quality. Providing for the financing, planning, designing,*  
24 *constructing, and operating of facilities to manage urban runoff,*  
25 *stormwater, and nonpoint source pollution is therefore necessary*  
26 *for, and constitutes an integral part of, effective sewer systems,*  
27 *and is a necessary response to the scheme of water quality*  
28 *regulation, and to the maintenance of public health.*

29 *(g) The control of pollution in urban runoff, stormwater, other*  
30 *forms of runoff, and nonpoint source pollution is not part of flood*  
31 *control, and facilities for these purposes, even if combined with*  
32 *and useful for flood control as well as water quality, are not*  
33 *drainage systems.*

34 *SEC. 2. Chapter 27 (commencing with Section 16100) is added*  
35 *to Division 7 of the Water Code, to read:*

1           *CHAPTER 27. THE REGIONAL WATERSHED RUNOFF*  
2           *MANAGEMENT AND FUNDING ACT OF 2008*

3  
4           *Article 1. Watershed Quality Committees*  
5

6       16100. (a) *Each county may convene for any watershed or*  
7 *significant subwatershed a watershed quality committee for the*  
8 *purpose of maintaining or achieving compliance with water quality*  
9 *laws and regulations, including water quality standards and other*  
10 *requirements of statewide plans, regional water quality controls*  
11 *plans, and total maximum daily loads, national pollutant discharge*  
12 *elimination system (NPDES) permits, and preparing an integrated*  
13 *implementation plan, as defined in Section 16101, for these*  
14 *purposes. Any city or cities, the boundaries of which encompass*  
15 *a substantial portion of a watershed or significant subwatershed,*  
16 *or any special district that holds a NPDES permit for runoff, may*  
17 *convene a watershed quality committee for that watershed or*  
18 *subwatershed if the county declines to do so.*

19       (b) *Each county, city, or special district convening a watershed*  
20 *quality committee shall consult with any regional water*  
21 *management group, as defined in Section 10537, to determine*  
22 *whether the regional water management group desires to be part*  
23 *of the committee.*

24       (c) *Each watershed quality committee shall be led by the city,*  
25 *county, or special district convening it, and shall include at least*  
26 *one member representing the appropriate regional board, as well*  
27 *as at least one member each from entities representing resource*  
28 *agencies, water agencies, sanitation districts, the environmental*  
29 *community, landowners, business and industry representatives,*  
30 *and, where appropriate, agricultural interests.*

31  
32           *Article 2. Integrated Implementation Plans*  
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34       16101. *For the purposes of this chapter, an “integrated*  
35 *implementation plan” means any plan, including an areawide*  
36 *waste treatment management plan under Section 208 of the Clean*  
37 *Water Act (33 U.S.C. Sec. 1288), a total daily maximum load*  
38 *implementation plan prepared in accordance with Section 303 of*  
39 *the Clean Water Act (33 U.S.C. Sec. 1313(d) and Sections 13241*  
40 *and 13242, a water quality attainment plan or other*

1 *implementation plan adopted pursuant to Section 13242, any part*  
2 *of an integrated regional water management plan prepared*  
3 *pursuant to Part 2.2 (commencing with Section 10530) of Division*  
4 *6, or any similar water quality improvement plan, that addresses*  
5 *major sources of pollutants in receiving water, stormwater, urban*  
6 *runoff, or other surface runoff pollution within the watershed or*  
7 *subwatershed to which the plan applies, and shall include all of*  
8 *the following elements relevant to these waters:*

9 *(a) A description of the actions that will effect protection and*  
10 *enhancement of designated beneficial uses of waters of the state,*  
11 *consistent with water quality laws and regulations.*

12 *(b) Recommendations for appropriate action by any entity,*  
13 *public or private, to facilitate achievement of, or consistency with,*  
14 *water quality objectives, standards, total maximum daily loads,*  
15 *or other water quality laws, regulations, standards, or*  
16 *requirements, a time schedule for the actions to be taken, and a*  
17 *description of surveillance to be undertaken to determine*  
18 *improvement in water quality.*

19 *(c) A coordinated economic analysis and financing plan that*  
20 *identifies the costs, effectiveness, and benefits of water quality*  
21 *improvements specified in the integrated implementation plan,*  
22 *and, where feasible, incorporates use-based approaches to*  
23 *financing, which place the cost of managing and treating surface*  
24 *runoff pollution on the generators of the pollutants, as an*  
25 *alternative to imposing these costs as an incident of real property*  
26 *ownership.*

27 *(d) To the extent applicable, a description of regional best*  
28 *management practices, watershed-based natural treatment systems,*  
29 *low-flow diversion systems, other measures constituting structural*  
30 *treatment best management practices, pollution prevention*  
31 *measures, low-impact development strategies, and site design,*  
32 *source control, and treatment control best management practices*  
33 *to promote improved water quality.*

34 *(e) A description of the proposed structure, operations, powers,*  
35 *and duties of an implementing entity for the integrated*  
36 *implementation plan, such as a joint powers authority or group*  
37 *of stakeholders.*

38 *16102. (a) An integrated implementation plan shall become*  
39 *effective upon approval by the appropriate regional board. A*  
40 *regional board shall act upon any integrated implementation plan*

1 submitted or resubmitted for approval by a watershed quality  
2 committee within a reasonable time. The regional board shall  
3 either approve the integrated implementation plan, or deny and  
4 return the plan to the committee with specific revisions it proposes  
5 to the plan.

6 (b) A regional board shall incorporate provisions of approved  
7 integrated implementation plans into its regional water quality  
8 control plan.

9 (c) Pursuant to Section 13320, the state board may review the  
10 actions or failure to act on an integrated implementation plan by  
11 a regional board under this chapter.

12  
13 Article 3. Stormwater Management  
14

15 16103. (a) In addition to making use of other financing  
16 mechanisms that are available to local agencies to fund integrated  
17 implementation plans and plan measures and facilities, a city,  
18 county, or special district providing water, sanitation, or refuse  
19 collection, or similar services, may impose fees to support the  
20 preparation of integrated implementation plans, and the  
21 implementation of those plans approved by a regional board,  
22 provided that the plans will facilitate compliance with one or more  
23 water quality requirements. Fees imposed pursuant to this section  
24 shall be reasonably related to the actual or anticipated adverse  
25 effects of the feepayer's activities that contribute to surface runoff  
26 pollution and the water quality benefit provided by implementation  
27 of the integrated implementation plan.

28 (b) A city, county, or special district that provides water,  
29 sanitation, or refuse collection, or similar services, may plan,  
30 design, implement, construct, operate, and maintain controls and  
31 facilities to improve water quality, including controls and facilities  
32 related to the diversion, interception, or collection of surface  
33 runoff, including urban runoff, stormwater, other forms of runoff,  
34 the treatment of pollutants in runoff or other waters subject to  
35 water quality regulatory requirements, the return of diverted and  
36 treated waters to receiving water bodies, the enhancement of  
37 beneficial uses of waters of the state, or the beneficial use or reuse  
38 of diverted waters.

39 (c) The fees and charges authorized under subdivisions (a) and  
40 (b) may be imposed on the generators of the runoff, stormwater,

1 *and surface runoff pollution as user-based or regulatory fees*  
2 *consistent with this chapter.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in Senate,  
July 3, 2007 (JR11)**